



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,160	07/05/2000	Bruce Horn	MK1-003US	4511
29150	7590	05/18/2004	EXAMINER	
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE, STE 500 SPOKANE, WA 99201			BROWN, TIMOTHY M	
			ART UNIT	PAPER NUMBER
			1648	15

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,160

Applicant(s)

HORN ET AL.

Examiner

Tim Brown

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

This Final Office Action is responsive to Applicants' Amendment submitted February 20, 2004. New claims 25-31 have been entered. Claims 1-31 are pending.

Information Disclosure Statement

The information disclosure statement submitted on August 6, 2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

The rejection of claims 1-10 under 35 U.S.C. § 101 is maintained. Claims 1-10 were rejected for failing to produce a concrete tangible result in the technological arts. Applicant argues the present amendment overcomes this rejection. However, the present amendment merely adds calculating and storing steps that are not necessarily carried out using some form of technology. Accordingly, claims 1-10 are rejected for failing to produce a concrete and tangible result. New claims 26-31 are also rejected under 35 U.S.C. § 101 for depending from a rejected claim.

Claim Rejections - 35 USC § 112

The rejection of claims 2, 6-9, 13 and 16-21 under 35 U.S.C. § 112, second paragraph are withdrawn in response to Applicants' amendment. Applicants' amendment necessitated the following new grounds of rejection.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1648

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 28 is vague in the recitation of “provides an objective measure of performance over time despite changes to the investor’s portfolio.” It is unclear what financial variable “an objective measure of performance” refers to. Amending the claim to recite a defined financial variable, such as price per share, would overcome this rejection.

Response to Arguments

Rejection of Claims 1, 3-5, 11, 12, 14, 15, 22 and 23 under 35 USC § 103

Applicants argue neither UK nor Microbanker teaches or suggests “determining a performance metric that objectively measures performance of the investor’s portfolio despite non-uniform changes to the investor’s portfolio that affect value of the investor’s portfolio but not performance.” The Examiner respectfully disagrees.

The Examiner interprets Applicants’ “performance metric” as reading on any financial variable that can measure a portfolio’s performance, without being affected by changes in the portfolio’s value. Microbanker’s net asset value (NAV) is one example of such a variable. Microbanker’s NAV is capable of measuring portfolio performance because Microbanker tracks NAV over time. Tracking NAV identifies positive or negative trends thereby providing a measure of the portfolio’s performance. Moreover, Microbanker’s NAV is not affected by “non-uniform changes” since changes like a stock split do not impact the portfolio’s overall value. Thus, Microbanker teaches Applicants’ performance metric.

Regarding claim 11, Applicants argue neither UK nor Microbanker teaches “a portfolio analyzer to maintain an individual investor’s portfolio . . . and a module to determine performance of the investor’s portfolio as a function of the value and the associated number of portfolio shares.” The Examiner respectfully disagrees. First, UK teaches Applicants’ portfolio analyzer by disclosing a Web site that provides users with a virtual portfolio of securities. UK’s portfolio analyzer (i.e. Web site server) enables individual investors to build and maintain their portfolios. Therefore, UK teaches “a portfolio analyzer to maintain an individual investor’s portfolio. Second, Microbanker teaches Applicants’ module. Applicants’ module is configured to measure a user’s portfolio performance *as a function of the value and the number of portfolio shares*. The Examiner interprets the italicized language to read on a price per share calculation; a price per share calculation is a measure of the total value of a portfolio relative to the amount of shares. Thus, by disclosing a price per share calculation, Microbanker teaches Applicants’ module. Based on the foregoing, the combination of UK and Microbanker teaches “a portfolio analyzer to maintain an individual investor’s portfolio . . . and a module to determine performance of the investor’s portfolio as a function of the value and the associated number of portfolio shares.”

Regarding claim 22, Applicants argue neither UK nor Microbanker teaches “the investment services server tracking investment accounts for individual investors and objectively measuring performance of the investment accounts despite non-uniform changes to the investment accounts that affect value of the investment account but not performance.” The Examiner submits this argument is not persuasive in that Applicant

Art Unit: 1648

is arguing an intended use for their "investment services server." This results because claim 22 is drawn to "an investment services server to handle requests for investment services" as well as the tracking and measuring functions presently argued by Applicants. Furthermore, if the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In the present case, UK's Web site server is capable of performing Applicants' intended use because it is programmed to allow users to create and manage a virtual portfolio of securities, as well as provide frequent portfolio price updates. Therefore, UK teaches "the investment services server tracking investment accounts for individual investors and objectively measuring performance of the investment accounts despite non-uniform changes to the investment accounts that affect value of the investment account but not performance."

Regarding claims 2, 6 and 16, Applicants argues Earle does not teach "adjusting the number of portfolio shares in response to portfolio events such that these events change a financial value of the portfolio but do not affect a percentage change in the financial value of the portfolio." The Examiner respectfully disagrees. As interpreted by the Examiner, this limitation is simply directed to purchasing and adding shares to an investment portfolio. This follows because adding shares to a portfolio "[adjusts] the number of portfolio shares" in response to an event (i.e. a purchase of shares). Also, a purchase of shares results in a change in NAV which is "a financial value of the portfolio." Finally, a purchase of shares does not "affect a percentage change in the financial value of the portfolio" because adding more shares does not cause a

Art Unit: 1648

percentage change in the price of the shares. Thus, Applicants' adjusting step reads on purchasing and adding shares to a portfolio.

Because Applicants' adjusting step simply adds shares to an investment portfolio, Earle teaches this step. This follows in that Earle discloses adding a number of shares to a mutual fund investor's portfolio in response to a transfer of assets by the investor (col. 1, lines 32-35). Based on the foregoing, Earle teaches "adjusting the number of portfolio shares in response to portfolio events such that these events change a financial value of the portfolio but do not affect a percentage change in the financial value of the portfolio."

Regarding claim 19, Applicants argue the combination of UK and Microbanker does not teach "portfolio events that change a value of the investor's portfolio such that the events do not affect performance of the investor's portfolio." As interpreted by the Examiner, this limitation is drawn to changing a value of the portfolio (i.e NAV), without affecting performance (i.e. price per share) of the portfolio. Thus, Microbanker teaches this limitation by increasing NAV through the purchase of shares (page 2, line 6) since the purchase of shares does not impact the portfolio's price per share.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 11, 12, 14, 15, 22, 23, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over a Newsbytes article (*UK - Web-Based Virtual Stock Market Game A Success*, Newsbytes (July 17, 1997)) (“UK”) in view of a Microbanker article (*Software introductions*, Microbanker, vol. 15, no. 3 (March 1995)) (“Microbanker”).

Regarding claims 1 and 3-5, UK teaches a Web site for conducting an online investment contest wherein users are permitted to maintain a hypothetical portfolio that is stored on a server. Users are permitted to access their account value by activating a “Ring Stockbroker” button. The Web site automatically calculates and distributes dividends and capital changes to the users’ portfolios. Periodically, UK awards prizes to users with the most valuable portfolios. UK’s Web site also provides users with hot links to tips on managing portfolios. See entire document.

UK does not expressly teach *determining a performance metric that objectively measures performance of the investor’s portfolio despite non-uniform changes to the investor’s portfolio that affect value of the investor’s portfolio but not performance, calculating an account value associated with the individual investor’s portfolio using the performance metric*. However, Microbanker teaches software that allows users to assess the performance of a fund based on user-defined goals including maximum offer price per share. Microbanker, p. 2. At the time of Applicants’ invention, it would have been obvious to one of ordinary skill in the Internet commerce art, to modify UK with Microbanker’s teaching of *determining a performance metric that objectively measures performance of the investor’s portfolio despite non-uniform changes to the investor’s*

Art Unit: 1648

portfolio that affect value of the investor's portfolio but not performance, calculating an account value associated with the individual investor's portfolio using the performance metric. This combination would provide UK with another basis for calculating portfolio value thereby allowing UK to provide an award based on per-share value.

Regarding claims 11, 12, 14 and 15, UK teaches a Web site for conducting an online investment contest wherein users are permitted to maintain a hypothetical portfolio on a server. Users are permitted to monitor actual share prices by activating a "Ring Stockbroker" button. The Web site automatically calculates and distributes dividends and capital changes to the users' portfolios. After a period of time, UK awards prizes to users having the highest valued portfolios. UK's Web site also provides users with hot links to tips on managing portfolios. See entire document.

UK does not expressly teach *a module to determine performance of the investor's portfolio as a function of the value of the associated number of portfolio shares*. However, Microbanker teaches software having programming for evaluating fund performance based on user-defined goals, including maximum offering price per share. Microbanker, p. 2. At the time of Applicants' invention, it would have been obvious to one having ordinary skill in the Internet commerce art, to modify UK with Microbanker's teaching of *a module to determine performance of the investor's portfolio as a function of the value of the associated number of portfolio shares*. This combination would enable users to track the performance of a hypothetical portfolio based on a wider range of criteria.

Regarding claims 22 and 23, UK teaches a Web site for conducting an online investment contest wherein users are permitted to maintain a hypothetical portfolio on a server. Users are permitted to monitor actual share prices by activating a "Ring Stockbroker" button. The Web site automatically calculates and distributes dividends and capital changes to the users' portfolios. After a period of time, UK awards prizes to users having the highest valued portfolios. UK's Web site also provides users with hot links to tips on managing portfolios. See entire document.

UK does not expressly teach *objectively measuring performance of the investment accounts for individual investors despite non-uniform changes to the investment accounts that affect value of the investment account but not performance*. However, Microbanker teaches software that permits users to evaluate fund performance based on user-defined goals, including offering price per share. Microbanker, p. 2. At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art to modify UK to include Microbanker's teaching of objectively measuring performance of the investment accounts for individual investors despite non-uniform changes to the investment accounts that affect value of the investment account but not performance. This combination would provide UK with another means of evaluating a user's portfolio.

Regarding claim 25, UK teaches all the limitations discussed under claim 1. UK does not expressly teach calculating an account value by dividing the total value of the portfolio by the number of shares. However, Microbanker teaches calculating this value through its disclosure of calculating the price per share of a load fund. It would have

been obvious to modify UK to include this limitation in order to provide another criteria for evaluating fund performance.

Claims 26 and 27 are directed to a performance metric that is capable of measuring portfolio performance without taking into account non-uniform changes such as stock splits and cash withdrawals. As noted in the response to arguments, Microbanker's tracking of NAV teaches a performance metric that is capable of measuring performance without being impacted by non-uniform changes. Thus, Microbanker also teaches a performance metric that can measure performance without being impacted by stock splits and cash withdrawals. Thus, it would have been obvious to modify UK with the teachings of Microbanker for the same reasons noted in the rejection of claim 1.

Regarding claim 28, UK teaches wherein the performance metric provides an objective measure of performance over time despite changes to the investor's portfolio (page 1, line 14).

Claims 2, 13 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK in view of a Microbanker and Earle (US Pat. No. 5,262,942).

Regarding claim 2, UK and Microbanker teach all the limitations discussed under claim 1. UK and Microbanker do not expressly teach *adjusting the number of portfolio shares in response to portfolio events wherein the portfolio events change a financial value of the investor's portfolio but do not affect a percentage change in the performance of the investor's portfolio.*

However, the "Background of the Invention" section of Earle discloses the management of an open-ended mutual fund wherein a purchaser acquires any number of mutual fund shares by transferring assets, such as cash, to a fund advisor. Col. 1, lines 19-26. A fund advisor then uses the assets to purchase securities or other prospectus-approved investments on behalf of the purchaser. Col. 1, lines 26-32. A transfer agent then issues to the purchaser the number of shares equivalent to the value of the assets provided by the customer. Col. 1, lines 33-35. Fund share prices are periodically determined using a net asset value calculation. Col. 1, lines 44-50. At the time of Applicants' invention, it would have been obvious to modify UK and Microbanker to include Earle's teaching of the adjusting step recited in claim 2. By implementing this combination, one of ordinary skill in the art could derive an online investment contest wherein contestants play the role of a mutual fund advisor. Thus, winning contestants could be selected based upon their performance as determined by share price appreciation.

Regarding claim 13, UK and Microbanker teach all the limitations discussed under claim 11. UK does not expressly teach *wherein the module adjusts the number of portfolio shares in response to portfolio events that change a value of the investor's portfolio without affecting performance of the investor's portfolio, the number of shares being adjusted to an amount that maintains a constant performance metric*. However, Earle teaches maintaining a constant performance metric by distributing earnings pro rata to shareholders in the form of dividends. Col. 5, lines 9-12. Therefore, at the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to

modify UK and Microbanker to include *wherein the module adjusts the number of portfolio shares in response to portfolio events that change a value of the investor's portfolio without affecting performance of the investor's portfolio, the number of shares being adjusted to an amount that maintains a constant performance metric as* suggested by Earle. This combination would allow users to maintain a constant net asset value thereby improving their funds performance by reducing price volatility.

Regarding claims 19 and 21 UK teaches one or more computer-readable media comprising computer-executable instructions that, when executed, direct a computing device to:

maintain, via the internet, a performance metric on an individual investor's portfolio, the investor's portfolio having a value and an associated number of portfolio shares, and detect portfolio events that change a value of the investor's portfolio. See entire document.

UK does not expressly teach *the performance metric being a function of the value and the number of portfolio shares, and detect portfolio events that change a value of the investor's portfolio, wherein the portfolio events do not affect performance of the investor's portfolio*. However, Microbanker teaches software that allows users to evaluate fund performance based on user-defined goals, including net asset value and maximum offering price per share. See page 3. At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify UK to include Microbanker's teaching of *the performance metric being a function of the value and the number of portfolio shares, and detect portfolio events that change a value of the*

Art Unit: 1648

investor's portfolio without affecting performance of the investor's portfolio. This combination would provide UK with another parameter for determining each user's portfolio performance.

UK and Microbanker do not expressly teach *upon occurrence of a portfolio event, adjust the number of portfolio shares to maintain a constant performance metric.*

However, Earle teaches maintaining a constant performance metric by distributing earnings pro rata to shareholders in the form of dividends. Col. 5, lines 9-12.

Therefore, at the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify UK and Microbanker to include *upon occurrence of a portfolio event, adjust the number of portfolio shares to maintain a constant performance metric* as suggested by Earle. This combination would allow users to maintain a constant net asset value thereby improving their funds performance by reducing price volatility.

Regarding claim 20, UK further teaches wherein the portfolio events are selected from a group of events comprising cash deposit, cash withdrawal, stock split, dividend, merger, acquisition, and divestiture. See entire document.

Claims 6-10, 16-18 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK in view of Earle (US Pat. No. 5,262,942).

UK teaches a Web site for conducting an online investment contest wherein users are permitted to maintain a hypothetical portfolio on a server. Users are permitted to monitor share prices by activating a "Ring Stockbroker" button. The Web site automatically calculates and distributes dividends and capital changes to the users'

Art Unit: 1648

portfolios. After a period of time, UK awards prizes to users having the highest valued portfolios. UK's Web site also provides users with hot links to tips on managing portfolios. See entire document.

UK does not expressly teach *adjusting the number of portfolio shares in response to a portfolio event wherein the portfolio event changes a financial value of the investor's portfolio, but does not affect performance of the investor's portfolio, and wherein the number of portfolio shares are adjusted such that the performance metric does not change in response to the portfolio event.*

However, the "Background of the Invention" section of Earle discloses the management of an open-ended mutual fund wherein a purchaser acquires any number of mutual fund shares by transferring assets, such as cash, to a fund advisor. Col. 1, lines 19-26. A fund advisor then uses the assets to purchase securities or other prospectus-approved investments on behalf of the purchaser. Col. 1, lines 26-32. A transfer agent then issues to the purchaser the number of shares equivalent to the value of the assets provided by the customer. Col. 1, lines 33-35. Fund share prices are periodically determined using a net asset value calculation. Col. 1, lines 44-50. At the time of Applicants' invention, it would have been obvious to modify UK and Microbanker to include Earle's teaching of the adjusting and deriving steps recited in claim 2. By implementing this combination, one of ordinary skill in the art could derive an online investment contest wherein contestants play the role of a mutual fund advisor. Thus, winning contestants could be selected based upon their performance as determined by share price appreciation.

Art Unit: 1648

As interpreted by the Examiner, claim 31 is drawn to a method wherein a new price per share of a portfolio is calculated after the addition of shares to the portfolio, and the new price per share is compared to the price per share of the portfolio prior to the addition of shares. In light of this interpretation, the Examiner submits claim 31 is obvious over UK in view of Earle.

UK and Earle teach all the limitations discussed above. UK does not expressly teach the limitations of claim 31 as interpreted by the Examiner. However, Earle teaches managing a mutual fund, including periodically adding shares to the mutual fund, and calculating the price per share of the mutual fund at least once a day (col. 1, lines 20-50). At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify UK to include a method wherein a new price per share of a portfolio is calculated after the addition of shares to the portfolio, and the new price per share is compared to the price per share of the portfolio prior to the addition of shares. This combination would provide another criteria for tracking the performance of the investor's portfolio.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over UK in view of a Microbanker and Official Notice.

UK and Microbanker teach all the limitations discussed under claim 22. UK and Microbanker does not expressly teach *wherein the investor computing devices and the investment services server communicate via a wireless network*. However, the Examiner takes Official Notice that communicating with an Internet server via a wireless network is old and well known in the art. Therefore, at the time of Applicants' invention,

it would have been obvious to modify UK and Microbanker to include *wherein the investor computing devices and the investment services server communicate via a wireless network*. This combination would allow users to access the investment server despite the absence of a hard-wired network.

Claims 2, 13 and 19-21 are rejected, in the alternative, under 35 U.S.C. 103(a) as being unpatentable over UK in view of a Microbanker, Earle (US Pat. No. 5,262,942) and Higgins (Higgins, J. M. *Janus Capital's John Schreiber*, *Broadcasting and Cable*, Vol. 128, no. 34 (August 17, 1998) p. 56).

UK, Microbanker and Earle teach all the limitations discussed under claims 1, 11 and 19. Assuming, *arguendo*, UK, Microbanker and Earle do not expressly teach *assigning an arbitrary number of portfolio shares*, the Examiner notes this limitation is met by Higgins. That is, Higgins discloses assigning analysts stocks from several different industry sectors. See page 1. At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify UK, Microbanker and Earle to include *assigning an arbitrary number of portfolio shares* as taught by Higgins. This combination would provide a simulated investment scheme wherein users are required to manage assets in a variety of industries.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over UK in view of a Microbanker and Drewett (Drewett, M. "Pick of the stockpickers; *Weekend Money*" *Times* (March 4, 2000)).

UK and Microbanker teach all the limitations discussed under claim 1. This combination does not expressly teach a performance metric that represents a

Art Unit: 1648

percentage change in the value of the portfolio. However, Drewett teaches evaluating a portfolio based on growth (page 1). At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify UK and Microbanker to include Drewett's teaching of evaluating a portfolio based on growth in order to provide another criteria for evaluating the portfolio.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over UK in view of Earle and Drewett.

UK and Earle teach all the limitations discussed under claim 6. This combination does not expressly teach a performance metric that represents a percentage change in the value of the portfolio. However, Drewett teaches evaluating a portfolio based on growth (page 1). At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify UK and Earle to include Drewett's teaching of evaluating a portfolio based on growth in order to provide another criteria for evaluating the portfolio.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Brown whose telephone number is (571) 272-0773. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (571) 272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

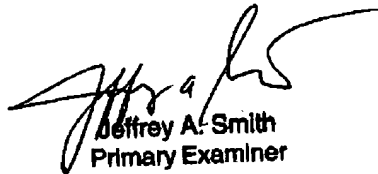
Application/Control Number: 09/610,160
Art Unit: 1648

Page 18

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tim Brown
Examiner
Art Unit 1648

tmb



Jeffrey A. Smith
Primary Examiner